

Remarks

Claims 1-11 and 13 were rejected under 35 U.S.C. § 102(b) as being anticipated by Rockey WO 88/05671, and claims 1-12 were rejected under 35 U.S.C. § 102 (e) as being anticipated by Chevillon US 2002/0022891.

The applicant has amended claims 8-10 and 12 to address some antecedent-basis issues noticed during the preparation of this response. The applicant has also added new dependent method claims 14-18, which correspond generally to dependent product claims 2-4, 8 and 12.

The applicant respectfully submits that neither Rockey nor Chevillon anticipates—or suggests—the subject matter of any of the claims. Neither reference teaches or suggests an implant wherein “the first tube-like section being dimensioned to fit into the esophagus of a patient and the second tube-like end section being dimensioned to be connected in a sealed manner to a small intestine loop within the patient,” as required by all the claims. Similarly, neither reference teaches or suggests a method for treating obesity including the steps of “attaching [a] first tube-like section [of an implant] into the esophagus of [a] patient, and attaching [a] second tube-like end section into a small intestine loop,” as required by claims 13-18.

Rockey shows a sleeve (10) which is to be implanted into a stomach. However, the Rockey sleeve does not have an end dimensioned to fit into the esophagus of a patient and does not have an end dimensioned to be

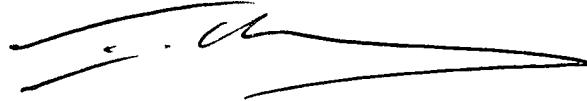
connected in a sealed manner to a small intestine loop. Also, Rockey does not disclose a method of attaching an implant in the manner set forth in claim 12.

Chevillon describes a prosthesis that may be used in blood vessels and gall-bladder ducts. Although Chevillon refers generally to human and animal ducts, there is no teaching or suggestion in Chevillon for a prosthesis dimensioned as required by all the claims or attached as required by claims 13-18.

Therefore, in view of the foregoing remarks, all the pending claims are patentable over the cited art. Accordingly, applicant respectfully requests reconsideration of the rejected claims and a notice of allowance.

Enclosed please find a check for \$250.00 for the five additional claims. The Commissioner is also hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith to Deposit Account No. 19-4972.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Timothy M. Murphy', with a long horizontal flourish extending to the right.

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